

1 STEVEN G. KALAR
Federal Public Defender
2 ANGELA M. HANSEN
Assistant Federal Public Defender
3 555 - 12th Street, Suite 650
Oakland, CA 94607-3627
4 Telephone: (510) 637-3500
5 Counsel for Defendant HERNANDEZ

6
7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,)
11) No. CR 12- 000705-YGR
Plaintiff,)
12) STIPULATION AND ORDER TO
vs.) CONTINUE HEARING DATE TO MARCH
13) 21, 2013 AND TO EXCLUDE TIME
14) UNDER THE SPEEDY TRIAL ACT
ALONZO JUAN HERNANDEZ,)
15) Date: February 22, 2013
Defendant.) Time: 2:00 p.m.
16)

17 The above-captioned matter is set on February 22, 2013 before this Court for a status
18 hearing. The parties jointly request that the Court continue the matter to March 21, 2013, at 2:00
19 p.m., and that the Court exclude time under the Speedy Trial Act, 18 U.S.C. § 3161, between
20 February 22, 2013 and March 21, 2013, for continuity of government counsel and so that the
21 defense can have more time to assess the discovery in this case, to investigate and research a
22 potential motion to suppress and to collect prior conviction records.

23 On September 27, 2012, the Grand Jury charged Alonzo Juan Hernandez in two counts:
24 (1) possession with the intent to distribute methamphetamine, a violation of 21 U.S.C. §
25 841(a)(1); and (2) felon in possession of a firearm, a violation of 18 U.S.C. § 922(g).
26

1 On October 15, 2012, Mr. Hernandez appeared before the magistrate court and was
2 arraigned on the Indictment. The magistrate court appointed the Federal Public Defender to
3 represent him and John Paul Reichmuth was assigned to his case. In early December, the
4 Federal Defender reassigned this case to Angela Hansen because Mr. Reichmuth is out on
5 personal family leave.

6 A Superseding Indictment was filed on January 10, 2013, and Mr. Hernandez was
7 arraigned on January 24, 2013 on three counts. He is now charged with the first two counts from
8 the original indictment and with an additional count of 18 U.S.C. § 924(c), carrying and
9 possessing a firearm during or in relation to a drug trafficking crime. This added charge has
10 increased Mr. Hernandez's statutory maximum and minimum penalties and the applicable
11 Sentencing Guidelines.

12 The parties are discussing plea negotiations and anticipate that this case may resolve
13 short of trial. In the meantime, however, given the new charges the defense requests that the
14 Court continue this matter to give counsel additional time to review the discovery, to meet with
15 Mr. Hernandez and to investigate the case to determine whether there is a sufficient legal and
16 factual basis to present the Court with a motion to suppress. For example, the defense has
17 completed an evidence view but all of the items were not available. The government is working
18 to set up an additional evidence view within the next two weeks. Additionally, a defense
19 investigator has interviewed two witnesses to Mr. Hernandez's arrest and is currently trying to
20 locate and interview a third witness. The defense also needs additional time to continue to
21 collect records and to research and assess the new Guidelines applicable to Mr. Hernandez based
22 on the new charge in the Superseding Indictment. For these reasons, the defense requests
23 additional time to prepare, and the parties agree that it is appropriate to continue this case until
24 March 21, 2013.

25 The parties further request a continuance until March 21, 2013 because government
26 counsel is unavailable until March 18, 2013.

1 The parties stipulate and agree that the ends of justice served by this continuance
2 outweigh the best interest of the public and the defendant in a speedy trial. The parties further
3 agree that the failure to grant this continuance would unreasonably deny counsel for defendant
4 the reasonable time necessary for effective preparation, taking into account the exercise of due
5 diligence. The parties also agree that the failure to grant this continuance would deny the
6 government continuity of counsel. Accordingly, the parties agree that the period of time from
7 February 22, 2013 until March 21, 2013, should be excluded in accordance with the provisions
8 of the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), for effective preparation of
9 defense counsel and for continuity of government counsel, taking into account the exercise of
10 due diligence.

11 DATED: February 15, 2013

/S/
JAMES C. MANN
Assistant United States Attorney

13 DATED: February 15, 2013

/S/
ANGELA M. HANSEN
Assistant Federal Public Defender

1 **ORDER**

2 Based on the reasons provided in the stipulation of the parties above, the Court hereby
3 FINDS:

4 1. Given that the Federal Public Defender recently reassigned this case to new
5 defense counsel;

6 2. Given that a Superseding Indictment was filed in January adding a third count
7 that has raised the statutory maximum, mandatory minimum, and the Sentencing Guidelines;

8 3. Given that the defense needs additional time to investigate and to research a
9 potential motion to suppress;

10 4. Given that the defense needs additional time to collect records and to research and
11 assess the Guidelines and defendant's criminal history category;


12 5. Given that these above-listed tasks are necessary for the defense preparation of
13 the case and that the failure to grant the requested continuance would unreasonably deny counsel
14 for defendant the reasonable time necessary for effective preparation, taking into account the
15 exercise of due diligence;

16 6. Given that government counsel is unavailable until March 18, 2013 and that the
17 failure to grant this continuance would unreasonably deny the government continuity of counsel;
18 and

19 7. Given that the ends of justice served by this continuance outweigh the best
20 interest of the public and defendant in a speedy trial;

21 Based on these findings, IT IS HEREBY ORDERED that the STATUS date of February
22 22, 2013, scheduled at 2:00 p.m., is vacated and reset for March 21, 2013 at 2:00 p.m. It is
23 FURTHER ORDERED that time is excluded pursuant to the Speedy Trial Act, 18 U.S.C. §
24 3161(h)(7)(A) and (B)(iv), from February 22, 2013 until March 21, 2013.

25 DATED: February 15, 2013
26


YVONNE GONZALEZ ROGERS
United States District Judge